

ADMISSIBILITY OF THE EXTRADITION

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ABSTRACT

THE TERM OF EXTRADITION DENOTE THE PROCESS WHEREBY, UNDER TREATY OR UPON A BASIS OF RECIPROCITY, ONE STATE SURRENDERS TO ANOTHER STATE AS ITS REQUEST A PERSON ACCUSED OR CONVICTED OF A CRIMINAL OFFENCE COMMITTED AGAINST THE LAWS OF THE REQUESTING STATE HAVING JURISDICTION.

KEYWORDS: *EXTRADITION, REQUEST FOR EXTRADITION, THE REQUESTED STATE, THE REQUESTING STATE, EXTRADITION ACTIVE, PASSIVE EXTRADITION*

I. Introductory aspects

In the literature different expressions were found in the definition of extradition, the differences between them arising from the fact that their formulation was not considered as important features determining the same elements, including or excluding some of them [1].

Extradition is a bilateral political and legal act which occurs between two states, under which a state (called), took refuge in which an offender or convicted, he teaches / submit at the request of another state (the applicant) to be judged or put to execute the punishment to which he was sentenced [2].

In terms of its purpose, extradition is an act of international mutual legal assistance, according to art. 14 C.p. can be granted or required under an international treaty to which Romania is a party or on a reciprocal basis in the law [3].

Specific law to which reference is Law no. 302 of 28 June 2004 on judicial cooperation in criminal matters [4]. The current regulation is consistent with the constitutional provisions relating incidents (Article 19 Constitution) and the provisions of international laws ratified by Romania [5].

Also, in addition to being the oldest form of international cooperation in criminal matters [6] and a useful measure to combat crime, extradition is a legal institution, both domestic law and international law [7] by operating agreements relating to cooperation States for the prevention and punishment of crimes, to achieve law and order and peace.

In the connection to the other member states of the European Union, the extradition procedure controlled by the international treaties from this area is replaced by the rendition procedure based on an european arrest [8].

warrantAccording to legal provisions [9], *the requesting State* is a State makes a request in the areas covered by *the Law on international judicial cooperation in criminal*

matters: in which the offense was committed, against the interests of which the offense was committed or the nationality of the offender or victim whose nationality offender. *The requested State* is the State in which the offender or who is convicted and sent a request to the areas covered by *the Law on international judicial cooperation in criminal matters*.

Through the action of the two states, we distinguish:

- *Active extradition* - designates the extradition procedure in which Romania has the Requesting State (Article 62-83 of *the Law on International Judicial Cooperation in Criminal Matters*).

- *Passive Extradition* - Extradition proceedings designates that Romania is the requested State (Article 18-61 of *the Law on International Judicial Cooperation in Criminal Matters*).

II. Admissibility of extradition requires the cumulative fulfillment of several conditions. These are on the one hand, fundamental conditions, and on the other hand, the shape conditions.

II.1. The substantive conditions refers to persons subject to extradition, offenses for which it is functional, the prosecution, the need to guarantee human rights.

II.1.1. Conditions relating to person

- The person whose extradition is sought must be a foreigner. In case of passive extradition, can be extradited from Romania, persons in its territory are prosecuted or sued for an offense or who are wanted for the enforcement of a sentence or a security measure [10] in the requesting State. With active extradition, Romania extraditable person against whom judicial authorities issued an arrest warrant or a warrant of imprisonment or to which he was a safety measure, a person located in the territory of the foreign state.

- The offender must be located within the requested state, the state which extradition is requested.

- The person on which extradition is sought must be of the quality of justice in the State addressed. Thus, if the requested person be subject to prosecution in the requested State, or acts as a defendant in a lawsuit before the courts or more, already applied to the custodial sentence, extradition is not possible until termination trial after execution. By way of exception, to avoid the statute of limitation for criminal liability, it is possible temporary extradition of the offender and then only for the performance of procedural acts which can not be postponed. Immediately after their performance, the offender will return in the requested State.

- The person claimed should not be finally judged by the judicial authorities of the requested State for the offense or offenses for which extradition is requested. With regard to this condition should be noted that extradition may be refused by the Requested State if their judicial authorities have decided not to prosecute or removing a person from criminal prosecution for the same offense to that claimed by the applicant State. Moreover, if the person has been finally judged claimed extradition can not be granted according to the principle “non bis in idem” if it has been paid, if the sentence has been served or was full pardon or an amnesty, or if the court established the guilt of the offender without imposing a sanction.

- Foreign person whose extradition is requested, it must have the quality of participant (witness, expert, hand) to a process in the requested State. Are exempt from extradition and those foreign persons subpoenaed to their hearing as witnesses, injured

party, civil party experts, as long as it retains this quality and is located in the requested State the purpose for which they were cited. After depletion of hearings by the competent authorities, these people are forced to return to the requesting State, and if they refuse they will be expelled rather than benefiting from immunity has been granted to them during the process.

- The person claimed should not enjoy immunity from jurisdiction under the conditions and within the limits conferred by the Convention or international law, since in this case the extradition can not take place, being in front of a procedural exceptions to the principle of criminal law enforcement in relation to the place of commission of the crime [11].

- Extradition claimed should not seriously affect their health. This condition required to perform the extradition has a profound humanist and health concerns of the defendant, in some situations it may be refused if there would be serious consequences to the life or health due to age or medical conditions. In those situations where extradition is refused on health grounds, the defendant may be investigated in a criminal case by the judicial authorities of the requested State, but only within the limits set by international conventions or agreements.

As an exception, can not be extradited following categories:

a) Romanian citizens unless the conditions of the special law [12]. According to art. 20 para. 4 of Law no. 302/2004, Romanian citizens can be extradited under the provisions of the bilateral and reciprocal basis, if at least one of the following conditions:

1 - extraditable person has the nationality of the requesting State;

2 - extraditable person residing in that State at the time of the request for extradition;

3 - person extraditable offense committed within or against a national of a Member State of the European Union, if the applicant is a member of the European Union.

In the last two cases, the applicant must provide assurances considered sufficient that if a sentence of imprisonment by a final judgment, the extradited person will be transferred to serve the sentence in Romania.

b) persons granted asylum in Romania. The right to asylum is protection that a state attaches to a person who has taken refuge on its territory because it was subject to persecution by another state. This protection is materialized and the refusal to extradite that person. The refusal to extradite any extradition request, not just the application by the State in whose territory the person granted asylum here. To the extent that the person whose extradition is requested has filed an application for asylum, extradition proceedings would be suspended pending the outcome of this application.

c) foreign persons in Romania enjoy immunity from jurisdiction under the conditions and within the limits set by convention or other international agreements. As long as people who enjoy immunity from jurisdiction, can not be prosecuted or judged according to the law of the State where they are accredited, it is natural that they can not be sent to another state for prosecution or trial. Immunity can not be but that the opposite state accredited to it by that person and may withdraw at any time. Thus, a state may withdraw his immunity of a diplomat accredited to Bucharest and then to seek his extradition. Moreover, as agreed in international practice, once the State which conferred immunity, filed a disclaimer such immunity, that person can be extradited at the request of a third State.

d) foreign persons summoned from abroad to hearing the parties, witnesses or experts before a Romanian court requesting the immunities conferred by international convention.

II.1.2. Conditions relating to the offense

- The offense is, in principle, committed outside the territory of the Requested State, the Requesting State so or by a national of that State or by the deed to be harmed the interests of the State. In case of passive extradition, it is necessary that the offense has not been committed in whole or in part in Romania, in which case the offense will be prosecuted and tried in Romania under the principle of ubiquity. And yet, it is possible to accept the request for extradition where prosecution and trial in the Requesting State are justified either truth or the possibility of applying an appropriate sanction or to ensure the social reintegration of extraditable person.

If a crime has been committed in offshore waters, and criminal refuge in a foreign port call is made, the State whose flag the ship carries extradition state where the perpetrator fled. The same applies when the act was committed in the air, in this case extradition is admissible when the request was sent to the State where the offender fled. In both cases, the essential condition required for admission extradition is that the person is not a citizen of the State of refuge.

- Offenses committed in a Member State - Extradition may be granted when the Romanian law empowered prosecution and judgment Romanian judicial authorities for offenses of the same kind, committed outside the territory of the Romanian state, or when the state proves that the third applicant on whose territory the offense will not request extradition for that act (Article 29 of Law no. 302/2004).

- There are double criminality of the act (Article 31 of Law no. 302/2004), except where the international convention provides otherwise.

- The offense for which extradition is requested to submit a specific gravity (Art. 26 of Law no. 302/2004). The seriousness of the offenses provided for in the law of states and international treaties in different ways. But there is an exception to this principle of conditionality extradition minimum penalty also aims death penalty [13]. Extradition shall be granted on condition that the applicant provide assurances deemed sufficient by the requested State that capital punishment will not be executed, sentence will be commuted to life.

When extradition is granted for prosecution or trial, the act must be punished according to the laws of the requesting State and Romanian law with imprisonment of at least one year. When extradition is granted for the execution of a sentence, it must be at least 4 months.

There are exceptions to extradition:

- Political offenses [14] or offenses connected with political offenses [15]. Appreciation of the political nature of the crime is done by the requested State, regardless of qualification offense under the law of the requesting State. How Romanian legislation contains general rules of political crime, the court hearing the extradition request will appreciate the political nature of the offense using any of the criteria set by the doctrine (objective, subjective, mixed).

- Military offenses which do not constitute common law offenses. The exception covers only offenses “purely military“ (desertion, confinement violation) So that common law crimes committed by the military (eg, theft [16]) does not fall into this category, even

if state law applied, they are treated as military offenses (in terms of jurisdiction of the courts, and the performance penalty).

- Acts qualified by the purpose of prosecuting or punishing a person on account of race, religion, sex, nationality, language, political or ideological opinion or membership in a particular social group, the more so as the person's situation is likely to worsen one of the reasons stated.

II.1.3. Condiții privitoare la acțiunea penală

- Criminal proceedings to be brought into action automatically (art. 30, art. 63 of Law no. 302/2004). If the prosecution is driven by the laws of both countries, the complaint of the injured party, and it opposes extradition, extradition will not be granted. In this case the injured party is the main holder of criminal action and decide where it will be judged criminal. But if the laws of one state, the action shall be initiated ex officio, extradition may be granted regardless of the position of the injured party.

- The criminal case on the offense that is the subject of the extradition request not to be the role of the Romanian authorities (Art. 22 of Law no. 302/2004). To the extent that, prior to receipt of the request for extradition, the Romanian authorities were informed about the offense that makes the request, extradition may be refused in so far as it considers it necessary to continue the course of the proceedings in Romania. In such a case, the applicant will be notified to complete the process on how the Romanian authorities have solved the case. If, however, the Romanian authorities decided to grant the request for extradition, prosecution or trial conducted by our authorities will cease when granting extradition.

- The criminal case on the offense that is the subject of the extradition request was not completely solved by the Romanian authorities. The extradition request will be rejected if the requested person has been finally judged for the same offense in Romania, whichever was the outcome of the court (conviction, acquittal, dismissal of criminal proceedings). If the notification was completed before the court, the criminal prosecution, removal or termination of criminal prosecution, grant of extradition is optional for instance.

- Prosecution or execution of sentence shall not be extinguished as a result of prescription, amnesty or clemency [17].

Regarding the statute of limitation, it is estimated by the law of the requesting and requested State law (Article 33 of Law no. 302/2004) in relation to the time of the extradition request so that the period is interrupted by submitting this unfulfilled demand and suspended in the event of postponement of extradition. If the Requesting State is fulfilled, and the requested State is not fulfilled, there is no legal basis for extradition since occurred prescription effects.

Amnesty occurred in the requested State preclude the granting of extradition to the extent that the state had jurisdiction to hear the offense (Article 34 of Law no. 302/2004). If Romania is requested State, this provision, taken from art. 4 of Protocol no. 2 European Convention on Extradition, causes almost always refuse extradition if amnestied because Romanian criminal law enforcement provisions in space causes an extremely broad scope thereof, so that the Romanian state will almost always have jurisdiction to judge the deed. Amnesty removes criminal liability of the offender, and if it occurred after the conviction and execution of the sentence pronounced removed.

Regarding the clemency (Art. 35 of Law no. 302/2004), adopted by the act of pardon ineffective Requesting extradition request, even if the other conditions for extradition are met.

II.1.4. Conditions relating to the need to safeguard human rights

Asked state bodies are obliged to prevent the violation of fundamental rights [18] of the person extradited, even if that violation would come from the authorities of the requesting State. As such, the request for extradition is not permitted.

Some of the fundamental rights that an extradition decision could affect them, refer to:

- The right to life. Two may be situations where an extradition request for admission may conflict with the law: the assumption that the extradition could be sentenced or subjected to a penalty of death and assuming that person's life is endangered in the state applicant, for example when requesting State a practice physical elimination of prisoners on the grounds of their membership of a political group, racial or religious.

- Prohibition of torture and inhuman or degrading treatment. First, this risk may come from the authorities of the requesting State when political regime encourages the requesting state police torturing political opponents or when the requesting State amid a civil conflict or social unrest, a situation prevails insecurity due mainly actions of the security forces (disappearances, summary executions).

Secondly, the risk may result from the criminal justice system of the state of destination, which provides corporal punishment incompatible with Art. 3 of the Convention (amputation of States, public whippings, etc.).

Finally, the risk that the extradited person to suffer treatment contrary to art. 3 of the Convention may also come from private groups whose actions escapes state authority, as happens in the case of paramilitare groups not controlled by the state or of entities acting within the scope of organized crime. In these cases must be proved not only the potential risk, but a real risk, so that the person concerned must prove not only the existence of a situation of this nature in the requesting state, but that is subject to this risk directly.

- The right to a fair trial [19] (art. 21 par. 1 of Law no. 302/2004). Romania will not grant extradition in cases where the person claimed should be tried in the requesting State by a court that does not provide essential procedural guarantees and protection of the rights of defense [20] or a national court set up specifically for that case, or if the extradition is requested the execution of a sentence handed down by that court [21].

- The right to family life. Article 8 of the ECHR guarantees, inter alia, the right to respect for family life. Measure extradition may be in conflict with the law, when the extradited person is more time in the requested State and already has a family there. According to the case- a measure of the extradition of a person may be an interference with the exercise of his right to family life, especially given that other members of his family may accompany him in the State to be transferred. In this matter, however, not every interference amounts to a violation of art. 8 ECHR because, according to par. 2, some interferences are admissible provided they are prescribed by law, pursue a legitimate aim and are necessary in a democratic society to achieve it. Necessity of the measure requires a balance between the right person, the right to respect for family life and the state to take certain steps to prevention of disorder or crime. Thus, when the offense committed is serious, the person has a criminal record numerous and she has been the recent family the requested State, the granting of extradition does not constitute a violation of art. August. But if the offense is less serious if the requested State may proceed with its prosecution and the accused family life long runs in the requested State, extradition is no longer a necessary interference and providing it can be a violation of Art. 8 of the Convention.

II.2. Formal conditions relate to procedural aspects of extradition and documents relating to accompany the application, competition claims, the mode of transmission of documents, deadlines to be met, the arrest extradited, transit and surrender.

- To be a request for extradition from a State's interest to punish the offender, or to put it to execute the sentence. The request for extradition shall be accompanied by certain documents showing the reasons for its acceptance [22].

- Romanian judicial authorities should conduct regular international exam [23].

- Requested State receives a request for extradition is required to arrest the offender for it to not be able to go.

- Requested State is required to notify the requesting state the date and place of teaching perpetrator is extradited. Place of teaching will be a border of Romania. International Police Cooperation Centre of the Romanian Police General Inspectorate ensures the National Bureau of Interpol, teaching and inform the Ministry of Justice and the Court of Appeal authority. Extradited person is taught and taken under escort. If the extradited person shall be taken on the date fixed, it will be released after the expiry of 15 days reckoned from this date. This term may be prolonged only by 15 days. In case of force majeure, which impede teaching or receiving person extradited, the Romanian authorities and those of the applicant will agree on a new date for surrender.

- The requesting State Party is required to communicate information required for completing the criminal trial which involved the extradition.

Conclusions

The rejection of the extradition request due to failure to meet the above, has the effect of removing the criminal liability of the person concerned. Admission extradition request has the effect of remission offender requesting State authorities to trial its subjection or execution of the sentence already imposed. Submitting offender but does not require the acquisition by the requesting State has a right unlimited its accountability because the prosecution exercised its territory is governed by the specialty of extradition [24].

REFERENCES

- [1]. G. Antoniu, C. Bulai, Gh. Chivulecu, *Dicționar juridic penal*, Scientific and Encyclopedic Publishing House, Bucharest, 1976, p. 112; J. Lemontey, *Du rôle de l'autorité judiciaire dans la procédure d'extradition passive*, Paris, 1966, p. 26; M. Travers, *Le droit pénal international*, vol. 5, Paris, 1920, p. 303; I. Ionescu-Dolj, *Extrădarea. Principiile ei după Codul penal Carol al II-lea și Convențiile internaționale semnate de România*, „Revista de drept penal și știință penală”, no. 1-2, 1940; Al. Gurănescu, *Extrădarea*, Gutenberg Publishing House, Bucharest, 1903, p. 12; V. Dongoroz, G. Antoniu, Șt. Daneș, Gh. Dărăngă, D. Lucinescu, V. Papadopol, D. Pavel, D. Popescu, V. Rămureanu, *Codul penal al R.S.R. comentat și adnotat*, Scientific Publishing, 1972, p. 43; R. M. Stănoiu, *Asistența juridică internațională în materie penală*, Academy Publishing House, Bucharest, 1975, p. 98; G. Geamănu, *Dreptul internațional penal și infracțiunile internaționale*, Academy Publishing House, Bucharest, 1977, p. 214; C. Bulai, *Manual de drept penal. Partea generală*, All Publishing House, Bucharest, 1997, p. 110; N. Lupulescu, *Extrădarea*, Luceafărul Publishing, Bucharest, 2004, p. 55-57.
- [2]. Al. Boroi, *Drept penal. Partea generală*, Publisher C. H. Beck., Bucharest, 2009, p. 58; I. R. Tomescu, I. Pinișoară, *The transposition of the frame-Decision regarding the European warrant of arrest in the Romanian law*, Annals of University Constantin Brancuși of Targu-Jiu, Juridical Science Series, no. 3/2013, p. 163.

- [3]. Law no. 286 of 17 July 2009 on *the Criminal Code of Romania*, published in the Official Gazette of Romania, Part I, no. 510 of 24 July 2009, as amended and supplemented (in force since 1 Feb. 2014).
- [4]. Law no. 302 of 28 June 2004 on *Judicial cooperation in criminal matters*, published in the Official Gazette of Romania, Part I, no. 377 of 31 May 2011.
- [5]. Fl. Streteanu, *Drept penal. Partea generală*, Publisher Rosetti, Bucharest, 2003, p.165.
- [6]. Extradition was in the beginning, more than a courtesy that made him a sovereign to another sovereign, which allowed monarchs to punish personal enemies refugees in another country. Few conventions governing extradition were negotiated and concluded almost exclusively in the interest of sovereignty. Monarch requested state discretion decide whether to grant extradition. Decision depends largely on the nature of relations with the requesting State, the sovereign wish to cause any positive decision on an extradition request made by him extraditable person being taken into account only to a small extent. The term is derived from Latin and circumstantial adverb of place „ex” = out, outside, followed by the word „tradition” = to teach, to deliver.
- [7]. I. R. Tomescu, *Uniunea Europeană - spațiu de libertate, securitate și justiție*, in the book „Securitate și apărare”, University of National Defence University „Carol I”, Bucharest, 2010, pp. 818-823.
- [8]. Decision 2002/584/JHA of June 13, 2002 on the European arrest warrant and surrender procedures between Member States, JOCE L190/2002, p. 1; for details see, I. R. Tomescu, I. Pînișoară, *The transposition of the frame-Decision regarding the European warrant of arrest in the Romanian law*, Annals of University Constantin Brancuși of Targu-Jiu, Juridical Science Series, no. 3/2013, p. 165.
- [9]. Article 2 of Law no. 302 of 28 June 2004 on *International judicial cooperation in criminal matters*, republished.
- [10]. The notion of „security measures” but in this context has a different meaning from the common criminal law, she designating any deprivation of liberty that was willing to supplement or replace a sentence by a criminal judgment.
- [11]. E. G. Simionescu, *Romanian criminal law enforcement in spaceIn the new criminal code*, Annals of the „Constantin Brâncuși” University of Târgu Jiu, Letter and Social Science Series, No. 3/2013, p. 61.
- [12]. According to art. 19 para. 1 of the Constitution of Romania, „Romanian citizen may be expelled or extradited from Romania”. However, according to art. 19 para. 2, notwithstanding the provisions of paragraph. (1) Romanian citizens can be extradited under international conventions to which Romania is a party, under the law, and reciprocal.
- [13]. Article 22 para. 3 of *the Constitution* expressly states that „the death penalty is prohibited”. Exclusion perspective of execution of capital punishment in the requesting State was first mentioned in art. 11 of the European Convention on Extradition of 1957, which included as a prerequisite to admission expulsion, the requesting State not enforcing the death penalty, if the internal law provide that kind of punishment.
- [14]. Refusal to extradite offenders policies appeared during the French Revolution and was even enshrined in the Constitution. The justification of this principle assumes local nature of political crime, as it was believed that it affects only the state against whom the offense, it did not produce social danger and fled the state where the perpetrator. First Additional Protocol to the Convention on Extradition 1957, Strasbourg, has excluded from political crimes crimes against humanity, crimes of genocide and any violations of the laws of war, the logical measure of severity relative social importance of these facts, as disastrous consequences for the entire international community.
- [15]. Article 21 para. 2 of Law no. 302/2004: „Do not be regarded as political offenses:
- a) attempt on the life of a Head of State or a member of his family;
 - b) crimes against humanity provided by Convention on the Prevention and Punishment of the Crime of Genocide adopted on 9 December 1948 the UN General Assembly;
 - c) the offenses referred to in art. 50 of the Geneva Convention for the Amelioration of the 1949 Wounded and Sick in Armed Forces in the Field art. 51 of the Geneva Convention for the Amelioration of the 1949 Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, art. 129 of the 1949 Geneva Convention on the treatment of prisoners of war and art. 147 of the 1949 Geneva Convention on the protection of civilian persons in time of war;
 - d) any similar violations of the laws of war, not covered by the provisions of the Geneva Conventions under letter c);
 - e) the offenses referred to in art. 1 of the European Convention on the Suppression of Terrorism, adopted in Strasbourg on 27 January 1997, and other relevant international instruments;

- f) offenses under the Convention against Torture and Other Cruel, Inhuman or Degrading adopted on 17 December 1984 the United Nations General Assembly;
- g) any other offense of a political character which has been removed by treaties, conventions or international agreements to which Romania is a party”.
- [16]. For details see, I. C. Rujan, *Drept penal. Partea specială I*, Didactic and Pedagogic Publishing, Bucharest, 2007, p. 84.
- [17]. M. R. O. Curelar, *Dicționar juridic Român- Englez*, Brancusi Academic Publishing, Târgu-Jiu, 2011, p. 133, 14, 84.
- [18]. For details see the rights and freedoms: L. M. Trocan, The evolution of human rights in Romania, *Dny práva – 2010 – Days of Law*, 1. ed. Brno: Masaryk University, 2010 (<http://www.law.muni.cz/content/cs/proceedings>).
- [19]. For details regarding the content of the right to a fair trial see L. M. Trocan, *Guaranteeing the right to defense in light of the provisions of international treaties specialized in human rights and ECHR jurisprudence*, Annals of University Constantin Brancuși of Targu-Jiu, Juridical Science Series, no. 4/2010, p. 114, 116-125).
- [20]. E. G. Simionescu, *Retrial after extradition proceedings*, International Conference „Regional development and multiculturalism in the European Union”, University „Dimitrie Cantemir”, Targu-Mures, 26-27 October 2007, Volume I, Risoprint Publishing, Cluj-Napoca, 2007, pp. 139-150.
- [21]. I.C.C.J., Criminal Section, Decision no. 273 of January 28, 2013 available on <http://www.scj.ro>.
- [22]. Article 36 paragraph 2 of Law no. 302/2004 states that „the application shall be submitted:
- a) depending on the stage of the proceedings, originals or authenticated copies of the final sentence with the word becomes final, decisions made following exercise legal remedies, warrant of imprisonment respectively originals or authenticated copies mandate arrest, the bill of indictment or other acts having equal power. Authentication of copies is Free competent court or prosecutor, as appropriate;
 - b) a statement of facts for which extradition is requested. Date and place of their commission, their legal and references to statutory provisions are applicable shall be indicated in the most accurate manner possible;
 - c) a copy of the applicable law, or if this is not possible, a statement of the relevant law and the most accurate of extraditable person and any other information likely to determine the identity and nationality;
 - d) Data on length of sentence served, if the request for extradition of a convicted person who has served only part of the sentence”.
- [23]. According to art. 38 of Law no. 302/2004, „international regular exam is to check the conformity of the extradition request and the documents attached with applicable international treaties, including the statements made by Romania under the provisions of multilateral conventions. Ministry of Justice, through the specialized department performs within 3 working days of receipt of the application, international regular exam, to determine whether :
- a) between Romania and the requesting State are conventional norms or reciprocity for extradition;
 - b) the request for extradition shall be annexed documents provided by applicable international treaty;
 - c) the application and supporting documents are accompanied by translations, according to Art. 14;
 - d) are one of the limits laid down in art grant judicial cooperation to Art. 3.
- Also, the international regular exam, the Ministry of Justice checks for reciprocity on extradition of nationals, if requested extradition of a Roman citizen”.
- [24]. According to art. 74 para. 1 of Law no. 302/2004, „the person surrendered as a result of extradition shall not be prosecuted or judgment, held for execution of sentence, nor subject to any other restrictions on his liberty for any previously actually teaching other than that motivated extradition, except for cases when:
- a) State which surrendered him consents to that end, the competent Romanian authorities requested State shall submit an application accompanied by the documents referred to in art. 36 para. (2) and by a report that the extradited person shall be recorded statements;
 - b) being able to do so, leaving the extradited person within 45 days of his final release in Romania, or if returned to Romania after leaving the Romanian territory”.